

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES
August 30, 2006

Auditorium
Town Hall

Wednesday, August 30, 2006 7:30 p.m.

Chairman Hillman called the meeting to order at 7:30 P.M. Commission Members Present: Peter Hillman, Craig Flaherty, Reese Hutchison, Ellen Kirby, Pete Kenyon and Ned Lewis (Susan Cameron recused herself).

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Public hearing:

Mr. Hillman opened the public hearing and read the hearing item at 7:30 p.m.

EPC-42-2006 Christopher and Margaret Stefanoni, 77 Nearwater Lane, proposing to construct an age restricted housing development and requesting a reconsideration of the extreme high water elevation and designation of the regulated inland wetlands.

Mr. Hillman thanked the applicants, attorneys, and consultants for submitting materials in a timely fashion. He asked the parties to consider a question raised in the Commission's January 18 decision regarding their jurisdiction. The definition of where the edge of Holly Pond begins still needs to be addressed. He thanked the applicants for granting a time extension to continue the hearing until September 13.

Attorney Wilder Gleason spoke on behalf of the Darien Land Trust.

He addressed the issue of collateral estoppel and referenced letters submitted to the Commission. He said the current application is a request for two bites of the apple. He provided the Commission with a copy of the deed for the Land Trust property, a map of the property, a list of other Land Trust properties, and the guidelines for the management of the properties. He said the wetlands are an important habitat and the Land Trust is concerned about the impacts to their property.

Mr. Gleason introduced Joseph Risioli, P.E. who reviewed the application on behalf of his clients.

Mr. Risioli said he has prepared a report which was submitted to the Commission. He said the current application represents a significant improvement over the last project. His job is to present the negative aspects of a complex system. He said things can go wrong over the 50 year life expectancy of the system. The components of the system are interdependent and one aspect needs the other to work. He referred to exhibit "A" of his

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report showing a profile he said simplifies the drainage system and exhibit "C" which is a portion of the Town topographic map which shows 30 acres of watershed to the point of discharge on Nearwater Lane. He said the applicant's engineer provided runoff calculations which show that the peak of the flow from the site will be out before peak of the flow from the watershed. The capacity of the pipe in the street is for a 2 year storm. When the street line reaches capacity it will flow under pressure and rise in the catch basin. The applicant's emergency discharge is at elevation 15.3. The water from the street may flow back into the swale and eventually overflow into the pond. He said the applicant should provide a solution to this problem if his calculations show that water will back up into the system and flow to Holly Pond.

Mr. Risoli referred to exhibit "B" of his report. He said that 16,000 square feet of off-site watershed area flows onto the property from North to South. He questioned whether that area was included in the drainage calculations and said it should be included.

Mr. Hillman asked Mr. Joe Canas of Tighe & Bond to comment on Mr. Risoli's first point which seems to be his primary concern. Mr. Canas said the applicant may need to analyze the capacity of the pipe in Nearwater Lane. Mr. Risoli asked for a surface water profile for the 2-25 year storms.

Mr. Barry Hammons, P.E. responded that his analysis of the watershed more of a gross calculation and that he will respond to Mr. Risoli's comments in an addendum.

Mr. Risoli said his concern is that erosion will occur when the weir is overtopped and water is flowing backward when the system is full.

Mr. Risoli referred to exhibit "D" of his report regarding the 16,000 square feet of watershed area which now flows to the pond which will be diverted to the street drainage system. He said the diversion of flow is discouraged. Mr. Flaherty asked Mr. Risoli what the primary hydrologic contributor to the wetland is. Mr. Risoli said it is the flow from the 50,000 square foot surface area. Mr. Flaherty suggested the water in the wetland comes primarily from Holly Pond. Mr. Hillman asked Mr. Canas to consider if the question of diversion of flow is a concern.

Mr. Risoli said he is concerned with the complexity of the network of pipes which are very flat and may become clogged with very fine sediment settling out. Mr. Lewis asked if the system can be purged. Mr. Risoli said yes but he sees this as a potential defect in the system. These pipes which daylight out can potentially clog. Mr. Kenyon asked in what year storm this will occur. Mr. Risoli suggested the applicant provide the answer and profiles of the pipe system.

Mr. Gleason introduce Mr. Steven Epifano, General Contractor. Mr. Epifano said that as a builder he is concerned about the practicality of construction. Mr. Hillman asked if he had any particular concerns of note. Mr. Epifano said he looked at the project as if he was going to build it. He said he would back away from the project because of significant site

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constraints and budget constraints. Mr. Hillman asked him if the use of a site monitor would allay his concerns. Mr. Epifano answered probably not.

Mr. Hutchison asked about the complexity of the system and if he worked with anyone he thought could install the system. Mr. Epifano said he did not know many contractors who lay pipes with lasers. Mr. Lewis asked if he has seen stormwater treatment systems with this complexity installed before. Mr. Epifano said yes but farther away from the building. Mr. Hillman asked if he had seen projects before with this level of complexity. Mr. Epifano said he has seen projects of equal complexity. Cricker Brook Lane was a project which failed. Mr. Lewis asked why it failed. Mr. Epifano said it was the lack of a homeowner's association. Mr. Gleason asked if Greenwich would approach this project differently. Mr. Epifano said they would allow for more room for the system. Mr. Gleason asked how far away from the building would be adequate. Mr. Epifano said the distance to the property line. Ms. Kirby asked how long it would take to build. Mr. Epifano estimated 12 months.

Mr. Gleason introduced Mr. Michael Aurelia. Mr. Aurelia submitted his resume. He said he is concerned with the significance of the wetland adjacent to the property. Holly Pond is a significant resource which has been impacted by development. It is a particularly unique resource to the Town and not much of the shoreline remains natural. He said the waters of Holly Pond, in his opinion, extend beyond Extreme High Water and the edge of the pond is where the high water is.

Mr. Aurelia said he commends the applicant for the improvements made with the new plan. His report recommends ways to insure the project is built without impacts. He said he is concerned with the issues raised by Mr. Risoli and potential impacts to Holly Pond.

Mr. Hillman asked Mr. Thomas Ryder of Land-Tech to address the concerns raised by Mr. Aurelia and whether he would like to submit a supplemental opinion. Mr. Ryder said the site has tight working conditions. He will coordinate with Mr. Canas to supplement his opinion on environmental impacts. Mr. Ryder said construction of the swale is listed as taking place in Phase I on the plan but the report lists it as Phase IIB. Mr. Hammons said the report will be corrected to reflect that the swale will be constructed in phase I.

Mr. Aurelia requested an answer on the backflow issue and said that the life expectancy of the system may be shortened and, therefore, there may be an impact. He said if Mr. Risoli's question is answered satisfactorily he has recommendations for conditions which are provided in his report. He said the site monitoring is the most critical and should involve two monitors including an environmental consultant.

Mr. Hillman asked Mr. Gleason his opinion on the Commission's authority to charge fees for the site monitor. Mr. Gleason said the regulations allow for bonds. Mr. Aurelia said he recommends that a P.E. inspect the site for the system construction and that a performance bond should be required. Mr. Hillman said that a bond would be appropriate since a project of this type is unique.

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Attorney John Canavino discussed the Commissions earlier decision and the issue of collateral estoppel. He said he will provide additional information on the issue. Mr. Gleason said the Darien Land Trust has spent thousands of dollars on legal fees and does not want to re-litigate issues already addressed.

Mr. Hillman discussed the additional information to be provided:

1. Mr. Hammons will respond to Mr. Risoli's report.
2. Mr. Canas will supplement his report.
3. Mr. Hammons will supply additional hydrological data.
4. Mr. Hammons will comment on the 16,000 square foot water diversion area.
5. Mr. Hammons will provide a response to the potential breakdown of the system parts, i.e. the 4" pvc pipes.
6. Mr. Aurelia will provide information on his additional ecological concerns.
7. The parties may provide comments on whether the wetlands are part of Holly Pond.
8. Mr. Canas and Mr. Ryder will coordinate their response regarding the backflow into the drainage swale.
9. The parties may provide additional comment on the monitoring fees, bonding and bond amounts.
10. Mr. Canavino will provide supplemental information on collateral estoppel.

Mrs. Stefanoni asked to comment on the issue of extreme high tide. She said they only need to establish the tide as higher than 6.47 and that they did not have the opportunity to collect the information during the course of the Planning and Zoning Commission process. She said the issue will not have to be revisited again once the elevation is established at 6.47 or above. Mr. Hammons requested that Mr. MacBroom's report be provided prior to September 8.

The Commission continued the public hearing until September 13, 2006 at 7:30 p.m. in the auditorium.

The meeting adjourned at 10:10 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer